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EXAMINER

LA VILLA, MICHAEL EUGENE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte NIKOLAUS SCHNETZER and DIRK SCHUMANN¹

Appeal 2015-008007
Application 13/124,677
Technology Center 1700

Before CHUNG K. PAK, CATHERINE Q. TIMM, and
MONTÉ T. SQUIRE, *Administrative Patent Judges*.

TIMM, *Administrative Patent Judge*.

DECISION ON APPEAL²

STATEMENT OF CASE

Pursuant to 35 U.S.C. § 134(a), Appellants appeal from the Examiner's decision to reject claims 16–30, 37, and 38. We have jurisdiction under 35 U.S.C. § 6(b).

¹ The real party in interest is BSH Bosch and Siemens Hausgeräte GmbH.

² In explaining our Decision, we cite to the Specification dated April 18, 2011 (Spec.), Final Office Action dated November 7, 2014 (Final), the Appeal Brief dated March 17, 2015 (Appeal Br.), the Examiner's Answer dated August 27, 2015 (Ans.), and the Reply Brief dated September 2, 2015 (Reply Br.).

For the reasons provided by the Examiner in the Final Office Action and Answer, we AFFIRM. We add the following for emphasis.

The claims are directed to a control element for a household appliance (*see, e.g.*, claim 16), and a household appliance comprising such a control element (*see, e.g.*, claim 37). Claim 16 is illustrative:

16. A control element for a household kitchen appliance,
the control element comprising:

a base member made of plastic;

a nickel coating applied to the base member; and

a noble metal coating applied to the nickel coating,

wherein the base member is configured to mount to a
shaft of the household kitchen appliance.

Claims Appendix, Appeal Br. 12.

The Examiner rejects claims 16–18, 21–25, 28, 29, 37, and 38 under 35 U.S.C. §103(a) as obvious over Chase³ in view of Howie⁴ and rejects claims 16–30, 37, and 37 under 35 U.S.C. § 103(a) as obvious over Fath⁵ in view of Chase and Howie.

OPINION

Rejection over Chase in view of Howie

In arguing against the rejection of claims 16–18, 21–25, 28, 29, 37, and 38 over Chase in view of Howie, Appellants do not argue any claim apart from the others. Appeal Br. 7–9. We select claim 16 as representative

³ Chase, US 2006/0086620 A1, published Apr. 27, 2006.

⁴ Howie, Jr., US 4,446,811, issued May 8, 1984.

⁵ Fath, US 2006/0210813 A1, published Sep. 21, 2006

to resolve the issue on appeal. The issue is: Have Appellants identified a reversible error in the Examiner's finding of a suggestion within the prior art for applying the coatings of Chase on a control element with a plastic base member configured to mount to a shaft of a household appliance?

Appellants have not identified such an error.

There is no dispute that, as found by the Examiner, Chase teaches a plastic base member coated with nickel and further coated with a noble metal as required by the first three clauses of claim 16. *Compare* Final 4, *with* Appeal Br. 7–9, *and* Reply Br. 3–4. The resulting plated plastic article has a decorative relief pattern of the type popular in, for instance, appliances and household applications. Chase ¶¶ 1, 2, 8.

The Examiner acknowledges that Chase does not specify that the plated plastic article is a kitchen appliance control element configured to be mounted on a shaft. Final 4.

There is no dispute that Howie discloses a control element for a kitchen appliance with a plastic base member configured for mounting on the end of a control shaft. Appeal Br. 7–9; Reply Br. 3–4. Howie's control element is a knob and skirt assembly mounted on a shaft to control a gas valve or electrical rheostat on a stove or oven or similar appliance. Howie col. 1, ll. 53–61; col. 3, ll. 11–19.

Together, as found by the Examiner, the prior art suggests configuring the plastic base member of Chase to mount to a shaft of a stove or similar kitchen appliance. Final 4. One would thus obtain a control element of plated plastic having the decorative relief pattern of Chase that can be used to control a gas valve or electrical rheostat on a stove or oven or similar kitchen appliance.

Appellants contend that they “discovered the advantageous nature of the application of the claimed structure to a control element of a household kitchen appliance,” and this discovery “is part of the ‘subject matter as a whole’ that must be considered when determining obviousness.” Appeal Br. 8, citing Spec. ¶¶ 4–7.

After considering the evidence as a whole, we remain unpersuaded of a reversible error in the Examiner’s finding of a reason to apply the coatings of Chase onto a control element with the plastic base member configured to mount on a shaft of a stove or oven.

The Specification discloses that “[h]ousehold appliances, such as for example gas cooktops, electric cooktops, ovens, dishwashers or washing machines frequently have control elements embodied in plastic, whose surface is, at least in a visible area, coated with metal.” Spec. ¶ 2. The metal coating mimics the look and feel of aluminum or stainless steel. *Id.* According to the Specification, nickel is frequently used as the metal coating, which is ground or brushed to give a desired surface structure. *Id.* The Specification explains that “[g]eneric control elements according to the prior art have the disadvantage, that surfaces made of nickel are not resistant to many substances occurring within a household, and the nickel surface is attacked for example by lactic acid, mustard or perspiration from hands,” and “[t]here is in addition the risk of dermatological reactions, if an operator suffers from a contact allergy to nickel.” Spec. ¶ 4. The Specification states that it was “known that these disadvantages are avoided through the application of a protective lacquer onto the nickel surface.” The object of Appellants’ invention is to improve resistance to external influences,

presumably the influences of substances that attack nickel, by coating the nickel with noble metal. Spec. ¶¶ 6–7.

Although Appellants disclose a different reason for making the combination, this does not negate the fact that there is a suggestion within the prior art for making the combination. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 420 (2007) (stating that it is error to look “only to the problem the patentee was trying to solve”); *In re Kemps*, 97 F.3d 1427, 1430 (Fed. Cir. 1996) (“the motivation in the prior art to combine the references does not have to be identical to that of the applicant to establish obviousness.”). Chase provides a reason for applying the noble coating to a nickel-plated plastic control element, namely to provide a decorative coating with delicately textured or patterned finish. Chase ¶ 9. That suggestion is enough to support the rejection for obviousness.

Rejection over Fath in view of Chase and Howie

In the second rejection, i.e., the rejection over Fath in view of Chase and Howie, the Examiner relies upon Chase and Howie in substantially the same manner as in the first rejection, but adds Fath for its teaching of coating a plastic base member to confer a decorative appeal to the coated objects. Final 5–6. Appellants’ arguments parallel those discussed above. Because the claims are not argued apart, we select claim 16 as representative. For the reasons presented by the Examiner in the Final Office Action and Answer, we determine a preponderance of the evidence supports the Examiner’s finding of a reason to combine the teachings of the references to obtain a control element for a kitchen appliance with the coatings and structure required by claim 16. Appellants have not identified a reversible error in the Examiner’s rejection.

Appeal 2015-008007

Application 13/124,677

CONCLUSION

We sustain the Examiner's rejections.

DECISION

The Examiner's decision is affirmed.

TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1).

AFFIRMED